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OFFICE OF PETITIONS

In re Application of :
Bauer et al. :
Application No. 10/627,547 : DECISION DISMISSING PETITION
Filed: July 25, 2003 :
Attorney Docket No. 5053.00009 :
Title of Invention: Online Bidding :
System :
:

This is a decision on the petition filed November 17, 2003, requesting in effect, that a Notice of Omitted Parts in a Nonprovisional Application ("Notice") mailed October 23, 2003, be withdrawn.

The petition is dismissed.

The application was filed on July 25, 2003. However, on October 23, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application "Notice" stating that the application had been accorded a filing date of July 25, 2003 and advising applicant that figure 3a as described in the specification appeared to have been omitted.

In response, on November 17, 2003, applicant filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of five sheets of drawings (4 figures) on July 25, 2003. Additionally, applicant submitted a copy of figure 3a. Petitioner argues figure 3a was submitted on July 25, 2003.

A review of the record shows that five (5) sheets of drawings were filed on July 25, 2003 and are presently in the file. However, the file shows no sheets of drawings containing figure 3a were filed on July 25, 2003.

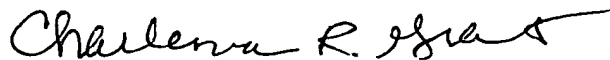
It is noted that the postcard refers to five (5) sheets of drawings but the official record clearly shows that the 5 sheets of drawings did not contain figure 3a. Instead the record shows the Office is in receipt of two copies of figure 3b. Assuming

arguendo that applicant's postcard receipt could be said to constitute *prima facie* evidence that figure 3a was received in the Office on July 25, 2003, the evidence is rebuttable, not conclusive. In this case, the evidence is rebutted by the fact that applicant has submitted one sheet of drawing which was not present on July 25, 2003. A comparison of the drawing submitted with the instant petition confirms that figure 3a is not one of the figures received on July 25, 2003. The facts and evidence at hand rebut the postcard receipt to the extent that figure 3a was not submitted.

The drawing containing figure 3a submitted on November 17, 2003 will not be entered.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of July 25, 2003**, using the 5 sheets of drawings supplied on July 25, 2003.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petitions Attorney
Office of Petitions